

**JUDICIAL COUNCIL of CALIFORNIA**  
**Minutes of the Business Meeting—January 17, 2013**  
**Ronald M. George State Office Complex**  
**William C. Vickrey Judicial Council Conference Center**  
**Malcolm M. Lucas Board Room**  
**San Francisco, California**

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**OPEN MEETING (RULE 10.6(A))—BUSINESS MEETING**

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Chief Justice Tani G. Cantil-Sakauye, Chair of the Judicial Council, called the meeting to order at 12:30 p.m. on Thursday, January 17, 2013, in the Malcolm M. Lucas Board Room of the William C. Vickrey Judicial Council Conference Center in the Ronald M. George State Office Complex.

**Judicial Council members present:** Chief Justice Tani G. Cantil-Sakauye; Justices Judith Ashmann-Gerst, Marvin R. Baxter, Harry E. Hull, Jr., and Douglas P. Miller; Judges Stephen H. Baker, Emilie H. Elias, James E. Herman, Teri L. Jackson, Ira R. Kaufman, and Mary Ann O'Malley; and Mr. James P. Fox; **members attending by phone:** Judges James R. Brandlin, David De Alba., Sherrill A. Ellsworth, and David Rosenberg; and Ms. Angela J. Davis (line restored as of 2:11 p.m.) and Ms. Edith R. Matthai; **advisory members present:** Judges Allan D. Hardcastle, Morris D. Jacobson, and Kenneth K. So; Commissioner Sue Alexander; and Court Executive Officer David H. Yamasaki; **advisory members attending by phone:** Judges Laurie M. Earl, Brian L. McCabe, Robert James Moss, and Charles D. Wachob; Chief Executive Officer Alan Carlson; Court Executive Officer Mary Beth Todd; and **secretary to the council:** Administrative Director of the Courts Steven Jahr.

**Members absent:** State Senator Noreen Evans and Mr. Mark P. Robinson, Jr.

**Others present:** Justices Brad R. Hill and Terence L. Bruiniers; Judges Paul Lloyd Beeman, Mark S. Borrell, and Jonathan B. Conklin (by phone); Mayor John Huerta, Jr.; Court Executive Officers Tammy L. Grimm and Brian Taylor; and Ms. Dawn Amino (by phone) and Ms. Mary Calderon (by phone); **public:** Mr. Michael Ferreira, Ms. Lindsey Scott Florez, Ms. Joi Fox, Ms. Anabelle Garay, Mr. Ignacio Hernandez, Ms. Arnella Sims, and Mr. Earl Thompson; and **media representatives:** Ms. Maria Dinzeo, *Courthouse News Service*; and Mr. Paul Jones, *Daily Journal*.

### **Chief Justice's Report**

Chief Justice Cantil-Sakauye noted the Governor's 2013–2014 proposed budget. With respect to budget developments, she stated that the council's priority is to focus on judicial branch budget issues and the cumulative impact of reductions over the past several years, in order to achieve adequate funding for the branch and the ability to fulfill the constitutional obligations of equal access to justice for all Californians. She also acknowledged the judges, justices, and members of the State Bar and the Trial Court Budget Working Group for their dedication and determination to inform the public of the funding issues that are unique to the branch.

She recounted her activities since the last council meeting in December, including an annual press briefing with legal affairs correspondents and a meeting with the press on the branch budget implications in the Governor's proposed budget. She also highlighted a reception hosted

by a diverse group of justice system partners on January 16 for members of the branch and legislators as an opportunity to confer on matters for the coming year.

### **Administrative Director's Report**

Steven Jahr, Administrative Director of the Courts, provided his written report on the activities of the Administrative Office of the Courts (AOC) since the December council meeting and briefed the council on several other developments. He observed that AOC staff have been developing materials to support the branch position on the Governor's recently proposed state budget. Judge Jahr also referenced several restructuring initiatives that the AOC is working on for presentation to the council at its February meeting. The council's Executive and Planning committee had deferred the regular status report on implementation of Judicial Council directives on AOC restructuring to the February meeting. Regarding AOC staffing, Judge Jahr reported the AOC's current workforce total of 801.73, which includes permanent, temporary, and contract staff. He informed the council of the AOC's conversion of 32 long-term temporary agency employees to regular employees and a second phase to convert a number of contract employees to regular status as a means of ensuring proper use of temporary staff and ultimately achieving cost savings. Following his report, he introduced AOC Chief Administrative Officer Mr. Curt Soderlund and AOC Director of the Center for Judiciary Education and Research (CJER) Dr. Diane E. Cowdrey, who made a brief presentation on the implementation of a new AOC management training program modeled after a CJER program designed for trial court managers.

### **Judicial Council Trial Court Liaison Reports**

Judge Teri L. Jackson gave an account of her visits on January 11, 2013, to the Superior Court of California, Counties of Santa Cruz and San Benito.

Judge Allan D. Hardcastle gave an account of his visit on December 20, 2012, to the Superior Court of California, County of Lake.

Judge James E. Herman commented on and expressed appreciation for the Administrative Director of the Courts Steven Jahr's visit to the Superior Court of California, County of Santa Barbara, and contact with court judicial officers and staff there, during his participation as keynote speaker at the dedication ceremony for the North County Clerk's Office.

### **Public Comment**

Written statements submitted to the Judicial Council for the meeting are attached. Two individuals appeared in the following order during the public comment session to speak on agenda item G, Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases:

1. Mr. Michael Ferreira, President, California Federation of Interpreters
2. Mr. Ignacio Hernandez, Legislative and Policy Advocate, California Attorneys for Criminal Justice.

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## CONSENT AGENDA (ITEMS A–C)

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**Item A Report to the Legislature: Fee Revenue and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for Fiscal Year 2011–2012**

The Administrative Office of the Courts (AOC) recommended approving *Report of Court Reporter Fees Collected and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for Fiscal Year 2011–2012*, as required by Government Code section 68086(c), to be sent to the chair and vice-chair of the Joint Legislative Budget Committee.

**Council action**

The Judicial Council approved the *Report of Court Reporter Fees Collected and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for Fiscal Year 2011–2012* and directed the AOC to submit the report to the Legislature.

**Item B Report to the Legislature: Allocation of New Judgeships Funding in Fiscal Year 2011–2012**

The AOC recommended approval of the *Report on Allocation of Funding in Fiscal Year (FY) 2011–2012 for Support of New Judgeships Authorized in FY 2007–2008*. The Budget Act of 2007 requires that this report be submitted each year until all judgeships are appointed and new staff hired.

**Council action**

The Judicial Council approved the *Report on Allocation of Funding in Fiscal Year (FY) 2011–2012 for Support of New Judgeships Authorized in FY 2007–2008* and directed the AOC to submit the report to the Legislature.

**Item C Report to the Legislature: Trial Court Revenue, Expenditure, and Fund Balance Constraints for Fiscal Year 2011–2012**

The Administrative Office of the Courts recommended that the Judicial Council approve the *Report of Trial Court Revenue, Expenditure, and Fund Balance Constraints for Fiscal Year 2011–2012*, as required by Government Code sections 68502.5(b) and 77202.5(b), to be sent to the chairs of the Senate Committees on Budget and Fiscal Review and Judiciary and the Assembly Committees on Budget and Judiciary.

**Council action**

The Judicial Council approved the *Report of Trial Court Revenue, Expenditure, and Fund Balance Constraints for Fiscal Year 2011–2012* and directed the AOC to submit the report to the Legislature.

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## DISCUSSION AGENDA (ITEMS D–H)

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**Item D      Mid-Year Budget Update: Governor’s Proposed Budget for Fiscal Year 2013–2014**

Hon. Steven Jahr, Administrative Director of the Courts; Mr. Cory Jaspersen, AOC Director of the Office of Governmental Affairs; and Mr. Zlatko Theodorovic, AOC Chief Financial Officer, provided the council with an analysis of the implications for the branch budget in the Governor’s proposed budget for Fiscal Year 2013–2014 and the cumulative effects of cuts in state general fund allocations and revenue changes over the past several years. They also discussed plans for a concerted effort by members of the branch and branch stakeholders to advocate for restoring and securing adequate funding for the branch.

**No action**

**Item E      SB 1407 Projects and Fiscal Year 2013–2014 One-Time and Ongoing Funding Requests for Facility Modifications and Facility Operational Costs for New Courthouses**

The Court Facilities Working Group recommended the indefinite delay of four SB 1407 projects due to the potential redirection of funding from Senate Bill (SB) 1407 construction funds to fund the Long Beach courthouse project (Governor George Deukmejian Courthouse). Other projects were recommended to move forward based on previous council direction. The working group also recommended submission of fiscal year 2013–2014 one-time and ongoing funding requests for facility modifications and for facility operational costs for new courthouses, to be funded by construction funds.

***Council action***

The Judicial Council, effective January 17, 2013, took action on two recommendations and deferred two recommendations to a future meeting, as advised by the Court Facilities Working Group. The Judicial Council:

1. Pending the enactment of the 2013–2014 Budget Act, indefinitely delayed and suspended the work on site acquisition, predesign, and design on three SB1407 projects—Fresno–Renovate Fresno County Courthouse, Los Angeles–New Southeast Los Angeles Courthouse, and Nevada–New Nevada City Courthouse—and approved moving forward with site acquisition and seeking necessary funding and acquisition approvals for the Sacramento–New Sacramento Criminal Courthouse preferred site but indefinitely delayed and suspended work on predesign and design.
2. Delegated to the Administrative Director of the Courts the authority to make technical changes to FY 2013–2014 funding requests submitted to the state Department of Finance necessary to move forward all judicial branch construction projects, subject to the review and approval of the chair of the Court Facilities Working Group.

### ***Actions deferred***

Submit a FY 2013–2014 funding request for \$8 million one-time and \$10 million ongoing for facility modifications from construction funds to support the documented need for ongoing investment in existing facilities. The \$8 million one-time funding request is pending enactment of the FY 2013–2014 Budget Act.

Submit a FY 2013–2014 funding request for \$2.237 million from construction funds for facility operating costs for new courthouses and ongoing funding requests from construction funds to meet annual facility operational cost requirements for new courthouses when completed. Use of construction funds for facility operations requires a legislative change.

### **Item F      Judicial Council Legislative Priority for 2013: New Judgeships**

Each year, the Judicial Council sponsors legislation to further key council objectives and sets its legislative priorities for the upcoming legislative year. At the December 14, 2012, Judicial Council meeting, the council reviewed the Policy Coordination and Liaison Committee (PCLC) recommendations for the 2013 legislative session and approved all but one recommendation. The council directed PCLC to reconsider its recommendation that the council sponsor legislation to create 50 new judgeships given that the previous set of 50 judgeships has not been funded. In light of this direction, PCLC revised this recommendation to advise the council to defer action on judgeships until the following fiscal year, because of the current economic environment and the need to focus on its other budget-related legislative priorities.

#### ***Council action***

The Judicial Council, with two opposed, voted to defer, for this fiscal year, sponsoring legislation to create the third set of 50 new judgeships and seek funding for the second set of judgeships.

### **Item G      Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases**

The Traffic and Court Technology Advisory Committees recommended establishing a pilot project authorizing trial courts to conduct remote video proceedings (RVP) in cases involving traffic infraction violations. In trial courts that institute RVP under the pilot project, defendants in eligible cases would be able to elect to appear at trial by two-way video from remote locations designated by the court. The proposed rule and implementing forms would enable courts to provide the public with ongoing access to court proceedings at a time when court resources are being substantially reduced and courthouses are being closed. The suggestion for the RVP pilot project originated from the Superior Court of Fresno County, which has recently been compelled to close several court facilities because of budget reductions.

#### ***Council action***

The Judicial Council adopted:

California Rules of Court, rule 4.220 and the relevant forms (TR-500-INFO, TR-505, and TR-510), effective February 1, 2013, to authorize courts to establish pilot projects for RVP

in traffic infraction cases. The council's adoption includes the following revisions and amendments made in the motion to approve the RVP pilot:

1. To the forms TR-505 *Notice of Waiver of Rights and Request for Remote Video Arraignment and Trial* and TR-510 *Notice of Waiver of Rights and Request for Remote Video Proceeding*, add check boxes for the defendant to initial for each bulleted waiver of rights listed.
2. Amend Subdivision (f)(2) of the proposed rule 4.220, to substitute "judicial officer" for the word "court" in line 9 on page 17, to read, "...the judicial officer may require deposit of bail..."

**Item H      Trial Court Allocation: Phoenix Financial Services Costs and New \$30 Court Reporter Fee Revenue**

The Trial Court Budget Working Group and the Administrative Office of the Courts submitted recommendations for distribution of the new \$30 court reporter fee revenue to the courts and for allocation of monies from the State Trial Court Improvement and Modernization Fund to pay for the trial courts' direct costs related to Phoenix financial services.

***Council action***

The Judicial Council, effective January 17, 2013:

- 1a. Allocated revenue from the new \$30 fee from court reporting services in civil proceedings lasting less than one hour to each trial court in the amount that each court remits to the Trial Court Trust Fund;
- 1b. Directed the AOC to request from the state Department of Finance and the Legislature an additional \$4 million in Trial Court Trust Fund Program 45.10 (Support for Operation of the Trial Courts) expenditure authority for the purpose of distributing the new court reporter fee revenue to the courts;
- 1c. Directed the AOC to distribute this allocation to courts even if the state Department of Finance and/or the Legislature do not approve an additional \$4 million on expenditure authority; and
2. Allocated \$6.769 million in one-time funding from the State Trial Court Improvement and Modernization Fund for direct costs related to the financial component of Phoenix Financial and Human Resources Services that had been paid for by courts in previous years according to council policy.

**In Memoriam**

Chief Justice Cantil-Sakauye closed the public session of the meeting with a moment of silence to remember recently deceased judicial colleagues and honor their service to their courts and the cause of justice:

- Hon. John R. Lewis (Ret.), Superior Court of California, County of Sacramento
- Hon. George G. Crawford (Ret.), Superior Court of California, County of Sacramento

- Hon. William Blanckenburg (Ret.), Superior Court of California, County of Napa
- Hon. George W. Clarke (Ret.), Superior Court of California, County of San Diego
- Hon. John J. Golden (Ret.), Superior Court of California, County of Lake
- Hon. Harold W. Knight III (Ret.), Superior Court of California, County of Orange
- Hon. Irving H. Perluss (Ret.), Superior Court of California, County of Sacramento
- Hon. Paul Teih (Ret.), Superior Court of California, County of Santa Clara.

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**..INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

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**INFO 1 Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106—Report No. 17)**

Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' regular office hours, and (2) the council to post all such notices on its website and also relay them to the Legislature. This is the 17th report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, three superior courts—those of San Bernardino, Mendocino, and San Joaquin Counties—have issued new notices.

**INFO 2 Trial Courts: Quarterly Investment Report for Third Quarter of 2012**

This *Trial Court Quarterly Investment Report* provides the financial results for the funds invested by the Administrative Office of the Courts (AOC) on behalf of the trial courts as part of the judicial branch treasury program. This report was submitted under the *Resolutions Regarding Investment Activities for the Trial Courts*, approved by the Judicial Council on February 27, 2004. This report covers the period of July 1, 2012, through September 30, 2012.

There being no further public business, the meeting was adjourned at 3:20 p.m.

Respectfully submitted,




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Steven Jahr  
Administrative Director of the Courts and Secretary  
to the Judicial Council

**Attachments**

1. California Rules of Court, rule 4.220, effective February 1, 2013
2. Forms TR-500-INFO, TR-505, and TR-510, effective February 1, 2013

3. Correspondence dated January 16, 2013, from Christopher B. Harmon, President, Riverside County Bar Association



Rule 4.220 of the California Rules of Court is adopted, effective February 1, 2013, to read:

1 **Rule 4.220. Remote video proceedings in traffic infraction cases**

2  
3 **(a) Authorization for pilot project**

4  
5 (1) With the approval of the Judicial Council, a superior court may establish by  
6 local rule a pilot project through December 31, 2015, to permit arraignments,  
7 trials, and related proceedings concerning the traffic infractions specified in (b)  
8 to be conducted by two-way remote video communication methods under the  
9 conditions stated below.

10  
11 (2) To obtain approval of the Judicial Council to conduct a pilot project for remote  
12 video proceedings under this rule, a court must submit an application to the  
13 council that includes details on what procedures and forms the court intends to  
14 institute for processing cases in the pilot project.

15  
16 **(b) Definitions**

17  
18 For the purposes of this rule:

19  
20 (1) “Infraction” means any alleged infraction involving a violation of the Vehicle  
21 Code or any local ordinance adopted under the Vehicle Code, other than an  
22 infraction cited under article 2 (commencing with section 23152) of chapter 12  
23 of division 11 of the Vehicle Code, except that the procedures for remote video  
24 trials authorized by this rule do not apply to any case in which an Informal  
25 Juvenile and Traffic Court exercises jurisdiction over a violation under sections  
26 255 and 256 of the Welfare and Institutions Code.

27  
28 (2) “Remote video proceeding” means an arraignment, trial, or related proceeding  
29 conducted by two-way electronic audiovisual communication between the  
30 defendant, any witnesses, and the court in lieu of the physical presence of both  
31 the defendant and any witnesses in the courtroom.

32  
33 (3) “Due date” means the last date on which the defendant’s appearance is timely  
34 under this rule.

35  
36 **(c) Application**

37  
38 This rule establishes the minimum procedural requirements and options for courts  
39 that conduct a pilot project for remote video proceedings for cases in which a  
40 defendant is charged with an infraction as defined in (b) and the defendant’s request  
41 to proceed according to this rule is for a trial or related proceeding that is set for a  
42 date after January 31, 2013.

43

1 **(d) Designation of locations and presence of court clerk**

- 2
- 3 (1) The court must designate the location or locations at which defendants may  
 4 appear with any witnesses for a remote video proceeding in traffic infraction  
 5 cases.
- 6
- 7 (2) The locations must be in a public place, and the remote video proceedings must  
 8 be viewable by the public at the remote location as well as at the courthouse.
- 9
- 10 (3) A court clerk must be present at the remote location for all remote video  
 11 proceedings.

12

13 **(e) Scope of court pilot project and request by defendant**

14

15 The following procedures and required forms in this section must be included in the  
 16 court's pilot project for remote video proceedings. In addition to following the  
 17 standard provisions for processing traffic infraction cases, the defendant may request  
 18 to proceed by remote video proceeding as provided below.

- 19
- 20 (1) Arraignment and trial on the same date

21

22 The following procedures apply to a remote video proceeding when the court  
 23 grants a defendant's request to have an arraignment and trial on the same date:

- 24
- 25 (A) The defendant must review a copy of the *Instructions to Defendant for*  
 26 *Remote Video Proceeding* (form TR-500-INFO).
- 27
- 28 (B) To proceed by remote video arraignment and trial, the defendant must sign  
 29 and file a *Notice and Waiver of Rights and Request for Remote Video*  
 30 *Arraignment and Trial* (form TR-505) with the clerk by the appearance  
 31 date indicated on the *Notice to Appear* or a continuation of that date  
 32 granted by the court and deposit bail when filing the form.
- 33
- 34 (C) A defendant who is dissatisfied with the judgment in a remote video trial  
 35 may appeal the judgment under rules 8.901–8.902.

- 36
- 37 (2) Arraignment on a date that is separate from a trial date

38

39 The following procedures apply to a remote video proceeding when the court  
 40 grants a defendant's request to have an arraignment that is set for a date that is  
 41 a separate date from a trial date:

42

- 1 (A) The defendant must review a copy of the *Instructions to Defendant for*  
2 *Remote Video Proceeding* (form TR-500-INFO).  
3  
4 (B) To proceed by remote video arraignment on a date that is separate from a  
5 trial date, the defendant must sign and file a *Notice and Waiver of Rights*  
6 *and Request for Remote Video Proceeding* (form TR-510) with the clerk  
7 by the appearance date indicated on the *Notice to Appear* or a continuation  
8 of that date granted by the court.

9  
10 (3) *Trial on a date that is separate from the date of arraignment*

11  
12 The following procedures apply to a remote video proceeding when the court  
13 grants a defendant's request at arraignment to have a trial set for a date that is  
14 separate from the date of the arraignment:

- 15  
16 (A) The defendant must review a copy of the *Instructions to Defendant for*  
17 *Remote Video Proceeding* (form TR-500-INFO).  
18  
19 (B) To proceed by remote video trial, the defendant must sign and file a *Notice*  
20 *and Waiver of Rights and Request for Remote Video Proceeding* (form  
21 TR-510) with the clerk by the appearance date indicated on the *Notice to*  
22 *Appear* or a continuation of that date granted by the court and deposit bail  
23 with the form as required by the court.  
24  
25 (C) A defendant who is dissatisfied with the judgment in a remote video trial  
26 may appeal the judgment under rules 8.901–8.902.

27  
28 (4) *Judicial Council forms for remote video proceedings*

29  
30 The following forms must be made available by the court and used by the  
31 defendant to implement the procedures that are required by a court's pilot  
32 project under this rule:

- 33  
34 (A) *Instructions to Defendant for Remote Video Proceeding* (form TR-500-  
35 INFO);  
36  
37 (B) *Notice and Waiver of Rights and Request for Remote Video Arraignment*  
38 *and Trial* (form TR-505); and  
39  
40 (C) *Notice and Waiver of Rights and Request for Remote Video Proceeding*  
41 (form TR-510).  
42  
43

1 **(f) Deposit of bail**

2  
3 (1) If a defendant requests to proceed by remote video arraignment and trial as  
4 provided in section (e)(1), the defendant must deposit bail, at the same time the  
5 request is filed, in the amount established in the uniform traffic penalty  
6 schedule under Vehicle Code section 40310.

7  
8 (2) If a defendant requests to proceed by remote video proceeding for a trial as  
9 provided in section (e)(3), the court may require deposit of bail, at the same  
10 time the request for remote video proceeding is filed, in the amount established  
11 in the uniform traffic penalty schedule under Vehicle Code section 40310.

12  
13 **(g) Appearance of witnesses**

14  
15 On receipt of the defendant's waiver of rights and request to appear for trial as  
16 specified in section (e)(1) or (e)(3), the court may permit law enforcement officers  
17 and other witnesses to testify at the remote location or in court and be cross-  
18 examined by the defendant from the remote location.

19  
20 **(h) Authority of court to require physical presence of defendant and witnesses**

21  
22 Nothing in this rule is intended to limit the authority of the court to issue an order  
23 requiring the defendant or any witnesses to be physically present in the courtroom in  
24 any proceeding or portion of a proceeding if the court finds that circumstances  
25 require the physical presence of the defendant or witness in the courtroom.

26  
27 **(i) Extending due date for remote video trial**

28  
29 If the clerk receives the defendant's written request for a remote video arraignment  
30 and trial on form TR-505 or remote video trial on form TR-510 by the appearance  
31 date indicated on the *Notice to Appear* and the request is granted, the clerk must,  
32 within 10 court days after receiving the defendant's request, extend the appearance  
33 date by 25 calendar days and must provide notice to the defendant of the extended  
34 due date on the *Notice and Waiver of Rights and Request for Remote Video*  
35 *Arraignment and Trial* (form TR-505) or *Notice and Waiver of Rights and Request*  
36 *for Remote Video Proceeding* (form TR-510) with a copy of any required local  
37 forms.

38  
39 **(j) Notice to arresting officer**

40  
41 If a court grants the defendant's request for a remote video proceeding after receipt of  
42 the defendant's *Notice and Waiver of Rights and Request for Remote Video*  
43 *Arraignment and Trial* (form TR-505) or *Notice and Waiver of Rights and Request*  
44 *for Remote Video Proceeding* (form TR-510) and bail deposit, if required, the clerk

1 must deliver, mail, or e-mail a notice of the remote video proceedings to the arresting  
2 or citing law enforcement officer. The notice to the officer must specify a location  
3 and date for the remote video proceeding and provide an option for the officer to  
4 request at least five calendar days before the appearance date to appear in court  
5 instead of at the remote location.

6  
7 **(k) Due dates and time limits**

8  
9 Due dates and time limits must be as stated in this rule, unless extended by the court.  
10 The court may extend any date, and the court need not state the reasons for granting  
11 or denying an extension on the record or in the minutes.

12  
13 **(l) Ineligible defendants**

14  
15 If the defendant requests a remote video proceeding and the court determines that the  
16 defendant is ineligible, the clerk must extend the due date by 25 calendar days and  
17 notify the defendant of the determination and the new due date.

18  
19 **(m) Noncompliance**

20  
21 If the defendant fails to comply with this rule (including depositing the bail amount,  
22 signing and filing all required forms, and complying with all time limits and due  
23 dates), the court may deny a request for a remote video proceeding and may proceed  
24 as otherwise provided by statute.

25  
26 **(n) Fines, assessments, or penalties**

27  
28 This rule does not prevent or preclude the court from imposing on a defendant who is  
29 found guilty any lawful fine, assessment, or other penalty, and the court is not limited  
30 to imposing money penalties in the bail amount, unless the bail amount is the  
31 maximum and the only lawful penalty.

32  
33 **(o) Local rules and forms**

34  
35 A court establishing a remote video trial project under this rule may adopt such local  
36 rules and additional forms as may be necessary or appropriate to implement the rule  
37 and the court's local procedures not inconsistent with this rule.

38  
39 **(p) Collection of information and reports on pilot project**

40  
41 Each court that establishes a pilot project under this rule must institute procedures as  
42 required by the Judicial Council for collecting and evaluating information about that  
43 court's pilot project and must prepare semiannual reports to the Judicial Council that  
44 include an assessment of the costs and benefits of the project.  
45

1 **(g) Effective dates**

2

3 This rule is adopted effective February 1, 2013, and remains in effect only until  
4 January 1, 2016, and as of that date is repealed, unless a rule adopted before January  
5 1, 2016, repeals or extends that date.

## INSTRUCTIONS TO DEFENDANT FOR REMOTE VIDEO PROCEEDING

A court may establish by local rule a pilot project to permit remote video arraignments and trials for traffic infraction cases. (Cal. Rules of Court, rule 4.220.) If the court where your case is filed is participating in the pilot project, you may be able to appear by video as allowed by local rule at a remote location designated by the court without having to appear in person at court.

Remote video proceedings (RVP) are available in cases involving Vehicle Code infractions or local ordinances adopted under the Vehicle Code. The procedure does not apply to traffic offenses that involve drugs or alcohol or are filed in Informal Juvenile and Traffic Court. The procedure provides a convenient process for resolving cases by consideration of disputed facts and evidence with the use of two-way audiovisual communication between the court and a local facility. Defendants who requests to appear by RVP must waive (give up) certain rights that apply to trial of criminal offenses, including traffic infractions. The instructions below explain procedures for requesting RVP for traffic infraction cases:

1. To request arraignment and trial on the same day, you may file a *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial* (form TR-505). To request RVP for arraignment or trial on separate days, you may file a *Notice and Waiver of Rights and Request for Remote Video Proceeding* (form TR-510).
2. Return the completed and signed form to the clerk with payment of the bail amount required by local rule or as ordered by the court. A completed form TR-505 or TR-510 with a deposit of the required bail payment must be received by the clerk by the appearance date on the Notice to Appear citation or continuation date granted by the court. If the form is received after the due date or without deposit of bail as required, the court may require a court appearance or bail deposit to schedule an arraignment or trial. **Failure to file the form and deposit bail as required by local rule by the due date may subject you to other charges, penalties, assessments, and actions, including a civil assessment under Penal Code section 1214.1 of up to \$300 and a hold on your driver's license.**
3. When the clerk receives a timely request for RVP with payment of the bail required by local rule or as ordered by the court, the court will rule on the request and provide notice of the court's decision on eligibility for RVP. If the court denies the request, the court may order you to respond within 10 court days of the notice of the order to schedule an arraignment or trial or appear in court. If the court approves the request, the court will notify you and the officer of the extended date and location to appear. The court may grant a request by the officer that issued the ticket and any other witnesses to appear in court to testify and be cross-examined while you appear at the remote location.
4. After a remote video trial is completed, if you are dissatisfied with the court's judgment, you may file an appeal under California Rules of Court, rules 8.901–8.902 within 30 days of the judgment. A new trial ("trial de novo") is not allowed. Always include your citation number in any correspondence with the court.
5. **IMPORTANT:** You have the right to appear for an in-person arraignment and trial at the court. If you appear at court for your case, your rights include:
  - The right to be represented by an attorney employed by you;
  - The right to request court orders without cost to subpoena and compel the attendance of witnesses and the production of evidence on your behalf;
  - The right to appear in person in court before a judicial officer for an arraignment to be informed of the charges against you, to be advised of your rights, and to enter a plea;
  - The right to request that a trial be scheduled for a date that is after your arraignment in court;
  - The right to have a speedy trial;
  - The right to be physically present in court at all stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law at trial and sentencing; and
  - The right to have the witnesses testify under oath in court and to confront and cross-examine witnesses in court.

**By voluntarily requesting to appear for arraignment and/or trial by RVP, you will agree to waive (give up):**

- Your right to appear in person in court before a judicial officer for arraignment and/or trial;
- Your right to a speedy trial within 45 days; and
- Your right to be physically present in court for trial and sentencing and all stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination in person of the officer that issued the ticket and other witnesses.

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY  <b>DRAFT-          NOT ADOPTED BY          JUDICIAL COUNCIL</b>
PEOPLE OF THE STATE OF CALIFORNIA vs.  DEFENDANT (Name):	
<b>NOTICE AND WAIVER OF RIGHTS AND REQUEST FOR REMOTE          VIDEO ARRAIGNMENT AND TRIAL (Veh. Code, § 40901)</b>	CITATION NUMBER /CASE NUMBER:  BAIL AMOUNT      DUE DATE (For filing form)

**Notice to Defendant of Rights:**

- You have the right to appear in person in court before a judicial officer for arraignment, to be informed of the charges against you, to be advised of your rights, and to enter a plea.
- You have the right to request that a trial be scheduled for a date after your arraignment.
- You have the right to a speedy trial within 45 days of submitting your request for a trial.
- You have the right to be physically present in court for trial and sentencing and all other stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law.
- You have the right to have witnesses testify under oath in court and to confront and cross-examine them in court.

**Waiver of Rights and Request for Remote Video Arraignment and Trial:**

I, (print name) \_\_\_\_\_ am the defendant in this traffic infraction case and understand that my rights include those listed above and also the right to hire an attorney and subpoena witnesses. I understand that a remote video proceeding (RVP) uses two-way electronic audiovisual communication between the court and me at the remote location instead of having me physically appear in the courtroom. By requesting RVP, I agree to appear at the designated off-site location and agree that the court may order me to appear in my case by RVP for any related proceedings. By requesting that the court allow me to proceed without being physically present in the courtroom and appear for all proceedings by RVP, I voluntarily elect to waive (give up) the following rights:

- My right to appear in person in court before a judicial officer for arraignment and trial on separate days;
- My right to a speedy trial within 45 days; and
- My right to be physically present in the court for trial and sentencing and all other stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination of witnesses in court.

I have read the *Instructions to Defendant for Remote Video Proceedings* (form TR-500-INFO) and request to appear by RVP in this case. I understand that the court may permit the officer that issued the ticket and any other witnesses to appear in court to testify and be cross-examined while I appear at the remote location and may deny my request at any time and order me to be present in the courtroom for any proceedings conducted in this case.

I enclose bail of \$\_\_\_\_\_ I need an interpreter:  Yes  No (Language): \_\_\_\_\_

I have an attorney to represent me:  Yes  No (Name of attorney): \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct. I promise to appear for all proceedings ordered by the court in this case. I understand that if I do not appear as promised the court may impose penalties, including a civil assessment of up to \$300 under Penal Code 1214.1, and report the failure to appear to the Department of Motor Vehicles for a hold on my license.

Date: \_\_\_\_\_ Defendant's Signature \_\_\_\_\_

Defendant's Phone Number \_\_\_\_\_

Defendant's Street Address/City/State/ZIP \_\_\_\_\_

Defendant's E-mail Address \_\_\_\_\_

**Please return this form to the court clerk in person or mail to:**

[Court location]

**TO BE COMPLETED BY CLERK**

Date: \_\_\_\_\_ Approved by: \_\_\_\_\_  
 Deputy Clerk

Hearing set for: \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_  
 Type of Hearing      Date      Time

Location:  [off-site location]  [off-site location]



NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY	
PEOPLE OF THE STATE OF CALIFORNIA vs.  DEFENDANT (Name):	<b>DRAFT- NOT ADOPTED BY JUDICIAL COUNCIL</b>	
<b>NOTICE AND WAIVER OF RIGHTS AND REQUEST FOR REMOTE VIDEO PROCEEDING (Veh. Code, § 40901)</b>	CITATION NUMBER /CASE NUMBER:	
	Is Bail Required By Court? <input type="checkbox"/> Yes <input type="checkbox"/> No	Due Date (For Form)

**Notice to Defendant of Rights:**

- You have the right to appear in person in court before a judicial officer for an arraignment to be informed of the charges against you, be advised of your rights, and to enter a plea.
- You have the right to request that a trial be scheduled for the same date as your arraignment.
- You have the right to a speedy trial within 45 days of submitting your request for a trial.
- You have the right to be physically present in court for trial and sentencing and all other stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law.
- You have the right to have witnesses testify under oath in court and to confront and cross-examine them in court.

**Waiver of Rights and Request for Remote Video  Arraignment or  Trial Under Rule \_\_\_\_\_:**

I, (print name) \_\_\_\_\_ am the defendant in this traffic infraction case and understand that my rights include those listed above and also the right to hire an attorney and subpoena witnesses. I understand that a remote video proceeding (RVP) uses two-way electronic audiovisual communication between the court and me at the remote location instead of having me physically appear in the courtroom. By requesting RVP I agree to appear at the designated off-site location and agree that the court may order me to appear in my case by RVP for any related proceedings. By requesting that the court allow me to proceed without being physically present in court and appear for all proceedings by RVP, I voluntarily elect to waive (give up) the following rights for (check one)  arraignment  trial:

- My right to appear for arraignment in person in court before a judicial officer and have a trial on the same day;
- My trial right to a speedy trial within 45 days; and
- My trial right after arraignment to be physically present in the court for trial and sentencing and all other stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination of witnesses in court.

I have read the *Instructions to Defendant for Remote Video Proceedings* (form TR-500-INFO) and request to appear by RVP in this case. I understand that the court may permit the officer that issued the ticket and any other witnesses to appear in court to testify and be cross-examined while I appear at the remote location and may deny my request at any time and order me to be present in the courtroom for any proceedings conducted in this case.

If bail is required for trial:  \$\_\_\_\_\_ is enclosed. I need an interpreter:  Yes  No (Language): \_\_\_\_\_

I have an attorney to represent me:  Yes  No (Name of attorney): \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct. I promise to appear for all proceedings ordered by the court in this case. I understand that if I do not appear as promised the court may impose penalties, including a civil assessment of up to \$300 under Penal Code 1214.1, and report the failure to appear to the Department of Motor Vehicles for a hold on my license.

Date: \_\_\_\_\_ Defendant's Signature \_\_\_\_\_

Defendant's Phone Number \_\_\_\_\_

Defendant's Street Address/City/State/ZIP \_\_\_\_\_

Defendant's E-mail Address \_\_\_\_\_

**Please return this form to the court clerk in person or mail to:**

[Court location]

**TO BE COMPLETED BY CLERK**

Date: \_\_\_\_\_ Approved by: \_\_\_\_\_  
Deputy Clerk

Hearing set for: \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_  
Type of Hearing Date Time

Location:  [off-site location]  [off-site location]

Page 1 of 1

# Riverside County Bar Association

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Via Overnight and Email ([judicialcouncil@jud.ca.gov](mailto:judicialcouncil@jud.ca.gov))

January 16, 2013

Judicial Council of California  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688

Re: Riverside County Bar Association Written Public  
Comments for January 17, 2013 Judicial Council  
Meeting; re Discussion Item F

To the Judicial Council of California:

I write this letter on behalf of the Riverside County Bar Association, its members, and the many individuals, families, and businesses that interact with our local courts each year. As you know, the Inland Empire, of which Riverside County is a part, has grown tremendously over the years. Our courts have been consistently under-funded to the detriment of our litigants, lawyers, judges, and court staff. While we are very pleased that the Council is mindful of the need for additional judgeships state-wide, as outlined in Agenda Item F, we strongly encourage the Council to consider that judicial positions allocated under AB 159, which were intended to provide immediate relief to the courts most in need, have yet to be funded. Understandably, all courts in the state believe they need more judges, but objective and incontrovertible data demonstrates the seriousness of the need in Riverside and San Bernardino Counties. We ask that the Council not defer all action on new judgeships, and that it strongly consider how already allocated judgeships can be funded, or how new judgeships can be funded for the most under-resourced courts.

Our Bar has previously provided the Council with hard data outlining the seriousness of the situation in Riverside and San Bernardino Counties. That data shows the following:

- Riverside's ratio of trial court judicial positions per 100,000 of population is 3.4. San Bernardino's ratio of trial court judicial positions per 100,000 of population is 4.2. The statewide average is 5.2 per 100,000 of population.
- Riverside County has seen a 44 percent increase in population since 2000 and a 95 percent increase since 1990. San Bernardino County has experienced a 19 percent increase in population since 2000 and a 43 percent increase since 1990. The number of judicial

positions in both counties has not kept pace with the increase in population. For example, in Riverside County the number of judicial positions only increased by 31 percent since 1990.

- While Riverside (4.1 percent) and San Bernardino Superior Courts (4.4 percent) receive a combined 8.5 percent of the judiciary's statewide Trial Court Trust Fund (TCTF) allocation, the two counties account for 11 percent of the state's population.
- Riverside has seen a 40 percent increase in total Superior Court case filings between fiscal years 2000-01 and 2009-10. San Bernardino's Superior Court case filings have increased by 39 percent in that time period. By comparison, Superior Court filings statewide increased 24 percent during that period.
- According to the Judicial Council of California 2011 Court Statistics Report ("2011 Report"), Riverside County Superior Court had 6,446 filings per authorized judicial position, the fourth highest amongst the state's 58 counties and San Bernardino County Superior Court had 6,533 filings per authorized judicial position, the third highest in the state.
- According to the California Judicial Workload Assessment published by the National Center for State Courts (NCSC) in November 2011, Riverside County Superior Court has a need for 150.8 judges. With only 76 judicial officers, the court faces a shortage of 74.8 judges, or a 49.6 percent deficit. The same report showed San Bernardino Superior Court with a need for 150 judges. With only 84 judicial officers, that court faced a shortage of 66 judges, or a 44 percent deficit. Statewide, there is workload to support 2,376 judges. With 2,022 authorized judicial positions, the state as a whole faces a shortage of 354 judges, or a 14.9 percent deficit.
- The 2011 Report also shows that, in fiscal year 2009-10, Riverside County Superior Court conducted 32,998 court trials, 41 of which were felony trials and 3,714 of which were unlimited civil trials. Only Los Angeles County had more unlimited civil bench trials, with a total of 4,018, and that was from a total of 97,030 total bench trials. San Bernardino conducted 34,004 bench trials during the same period, 16 of which were felony trials and 627 of which were unlimited civil trials
- Per the 2011 Report, Riverside County conducted 1,087 jury trials during fiscal year 2009-10, 683 of which were felony trials, and 51 of which were unlimited civil trials. The only county to surpass the total number of jury trials conducted was Los Angeles County with a total of 3,572 jury trials. Based on Riverside County's relative dearth of judicial position equivalents, the County ranked second on the state-wide list of jury trials per judicial position. Based on the performance indicator data by County for fiscal year 2009-10, Riverside judges hear approximately 11.1 jury trials per bench officer, in comparison to the state-wide average of 5.2 jury trials per bench officer. The number of judicial position equivalents for that year is also over-estimated because it includes Assigned Judges sent to the County, based on a yearly average of their attendance, and it factors in the 7 judicial positions allocated to Riverside under AB 159, which were never funded.

Using more accurate data, the number of jury trials per judicial position would actually be closer to 14.3 trials per bench officer.

- According to the Judicial Council's own statistics, in fiscal year 2009-10, the Fourth District, Division Two, disposed of 10.3 percent of the appeals and writs disposed of by the courts of appeal statewide, while having just 6.7 percent of the 105 appellate court justices statewide. In contrast, the entire First District Court of Appeal disposed of only 14.1 percent of the appeals and writs in the state while having 19% of the 105 appellate court justices statewide. The disparity does not disappear when applying the "workload-adjusted" formula developed in 1995 by the Appellate Court Resources Analysis Working Group chaired by Justice Norman L. Epstein. In fiscal year 2010-11, the Fourth District, Division Two filed 137 opinions per justice, the equivalent of 95 opinions per justice on a "workload-adjusted" basis, which is higher than any other District Court of Appeal in California. The First District Court of Appeal, in contrast, filed 75 opinions per justice on a "workload-adjusted" basis, and the Second District Court of Appeal filed only 84 opinions per justice on a "workload-adjusted" basis.<sup>[1]</sup>
- Based on California Department of Finance information, in 2010 the Fourth Appellate District, Division Two (which serves, Riverside, San Bernardino, and Inyo Counties) was estimated to have 615,708 residents per appellate justice, the highest number in the state. The next closest district is Second District, Division Six with 382,930 residents per justice.

Understandably, many of our courts are seeking additional resources in a time when resources are scarce, but the demonstrated need in our community is great, and is not based on perceived need but on the above-outlined data that can be objectively verified. We have already requested the Council address this serious disparity in funding, and are hopeful that you will do so. We request by this letter the Council keep that serious disparity in mind when considering new judgeships and its funding priorities in the coming year.

Sincerely yours,



Christopher B. Harmon  
President, Riverside County Bar Association

cc: Trial Court Budget Working Group  
(Nancy.Carlisle@jud.ca.gov)

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<sup>[1]</sup> Recognizing that appeals are generated from trial courts, and that Riverside County conducts more jury trials than any County besides Los Angeles, it is likely that the workload in the Fourth District, Division Two, will increase. As a comparison, the other two counties that comprise the Fourth District Court of Appeal, Orange County and San Diego County, conducted only 1,094 jury trials combined during fiscal year 2009-10, in comparison with Riverside's 1,087.